UTAH CONTROLLED SUBSTANCES ACT

58-37-1. Short title.

This act shall be known and may be cited as the "Utah Controlled Substances Act."

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a common or contract carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, or any union or groups of individuals associated in fact although not a legal entity, and including illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Title 58, Chapters 37, 37a, 37b, 37c, or 37d, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance included in Schedules I, II, III, IV, or V of Section 58-37-4, and also includes a drug or substance included in Schedules I, II, III, IV, or V of the Federal Controlled Substances Act, Title II, P.L. 91-513, or any controlled substance analog.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine or malt beverages, as those terms are defined or used in Title 32A, Alcoholic Beverage Control Act, regarding tobacco or food;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled Substances Act, Title II P.L. 91-513;

(A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in the schedules set forth in this Subsection (1)(f); or

(B) which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances in the schedules set forth in this Subsection (1).

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 366, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a, 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b, 37c, or 37d.

(i) "Counterfeit substance means:

(i) any substance or container or labeling of any substance that without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by, any other manufacturer, distributor, or dispenser; or

(ii) any substance that is represented to be a controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide;

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Occupational and Professional Licensing created in Sectoin 58-1-103.

(r) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(ii) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(iii) articles, other than food, intended to affect the structure or function of man or other animals; and

(iv) articles intended for use as a component of any articles specified in Subsection (1)(q)(i), (ii), or (iii); but does not include devices or their components, parts, or accessories.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient of substance of plant, mineral or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight and

overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) "Marijuana" means all species of the genus Cannabis and all parts of the genus, whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from them, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any synthetic equivalents of the substances contained in the plant Cannabis sativa or any other species of the genus Cannabis which are chemically indistinguishable and pharmacologically active are also included.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii),

or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, obtaining or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription orally or in writing.

(ll) "Prescription" means an order issued by a licensed practitioner, in the course of that practitioner's professional practice, for a controlled substance, other drug, or device which it dispenses or administers for use by a patient or an animal. The order may be issued by word of mouth, written document, telephone, facsimile transmission, computer, or other electronic means of communication as defined by rule.

(mm) "Production" means the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

58-37-2.5. Restricted applicability.

This chapter does not restrict the sale and use of herbs, herbal products, or food supplements that are not scheduled in this chapter as controlled substances.

58-37-3. Substances which are controlled.

(1) All substances listed in Section 58-37-4 are considered controlled.
(2) All substances listed in the Federal Controlled Substances Act, Title II, P.L. 91-513, are considered controlled.

58-37-4. Schedules of controlled substances - Schedules I through V - Findings required - Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which shall consist of substances listed in this section.
(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name or brand name designated:
(a) Schedule I:
(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomer, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:
(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
(B) Acetylmethadol;
(C) Allylprodine;
(D) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
(E) Alphameprodine;
(F) Alphamethadol;
(G) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido piperidine);
(H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)
(I) Benzethidine;
(J) Betacetylmethadol;
(K) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl}-N-pheylpropanamide);
(L) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
(M) Betameprodine;
(N) Betamethadol;
(O) Betaprodine;
(P) Clonitazene;
(Q) Dextromoramide;
(R) Diampromide;
(S) Diethylthiambutene;
(T) Difenoxin;
(U) Dimenoxadol;
(V) Dimepheptanol;
(W) Dimethylthiambutene;
(X) Dioxaphetyl butyrate;
(Y) Dipipanone;
(Z) Ethylmethylthiambutene;
(AA) Etonitazene;
(BB) Etoxeridine;
(CC) Furethidine;
(DD) Hydroxypethidine;

(EE) Ketobemidone;
(FF) Levomoramide;
(GG) Levophenacylmorphan;
(HH) Morpheridine;
(II) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)
(JJ) Noracymethadol;
(KK) Norlevorphanol;
(LL) Normethadone;
(MM) Norpipanone;
(NN) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide;
(OO) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(PP) Phenadoxone;
(QQ) Phenampromide;
(RR) Phenomorphan;
(SS) Phenoperidine;
(TT) Piritramide;
(UU) Proheptazine;
(VV) Properidine;
(WW) Propiram;
(XX) Racemoramide;
(YY) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
(ZZ) Tilidine;
(AAA) Trimeperidine;
(BBB) 3-methylfentanyl, including the optical and geometic isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide); and
(CCC) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N\phenylpropanamide).

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation.
(A) Acetorphine;
(B) Acetyldihydrocodeine;
(C) Benzylmorphine;
(D) Codeine methylbromide;
(E) Codeine-N-Oxide;
(F) Cyprenorphine;
(G) Desomorphine;
(H) Dihydromorphine;
(I) Drotebanol;
(J) Etorphine (except hydrochloride salt);
(K) Heroin;
(L) Hydromorphinol;
(M) Methyldesorphine;
(N) Methylhydromorphine;
(O) Morphine methylbromide;
(P) Morphine methylsulfonate;
(Q) Morphine-N-Oxide;
(R) Myrophine;
(S) Nicocodeine;
(T) Nicomorphine;
(U) Normorphine;
(V) Pholcodine; and
(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(iii) only, "isomer" includes the optical, position and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; -ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy--methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxypenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy--methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy--methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy--methylphenethylamine; "DOM"; and "STP";

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c)(12));

(W) N-ethyl-3-piperidyl benzilate;
(X) N-methyl-3-piperidyl benzilate;
(Y) Psilocybin;
(Z) Psilocyn;
(AA) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;
(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and
(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Mecloqualone; and
(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:
(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenly-2-oxazolamine;
(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
(C) Fenethylline;
(D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;
(E) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
(F) N-ethylamphetamine; and
(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:
(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
(B) N-[1- (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:
(I) Raw opium;
(II) Opium extracts;
(III) Opium fluid;
(IV) Powdered opium;
(V) Granulated opium;
(VI) Tincture of opium;
(VII) Codeine;
(VIII) Ethylmorphine;
(IX) Etorphine hydrochloride;
(X) Hydrocodone;
(XI) Hydromorphone;
(XII) Metopon;
(XIII) Morphine;
(XIV) Oxycodone;
(XV) Oxymorphone; and
(XVI) Thebaine;
(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;
(C) Opium poppy and poppy straw;
(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and
(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:
(A) Alfentanil;
(B) Alphaprodine;
(C) Anileridine;
(D) Bezitramide;
(E) Bulk dextropropoxyphene (nondosage forms);
(F) Carfentanil;
(G) Dihydrocodeine;
(H) Diphenoxylate;
(I) Fentanyl;
(J) Isomethadone;
(K) Levo-alphacetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
(L) Levomethorphan;
(M) Levorphanol;
(N) Metazocine;
(O) Methadone;
(P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
(R) Pethidine (meperidine);
(S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(V) Phenazocine;
(W) Piminodine;
(X) Racemethorphan;
(Y) Racemorphan;
(Z) Remifentanil; and
(AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(B) Methamphetamine, its salts, isomers, and salts of its isomers;
(C) Phenmetrazine and its salts; and
(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Amobarbital;
(B) Glutethimide;
(C) Pentobarbital;

(D) Phencyclidine;
(E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
(F) Secobarbital.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.
Some of these substances may be known by trade or other names: phenyl-2-propanone, P2P; benzyl methyl ketone, methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;
(B) Benzphetamine;
(C) Chlorphentermine;
(D) Clortermine; and
(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;
(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;
(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;
(D) Chlorhexadol;
(E) Buprenoprhone;
(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;
(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: ±-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
(H) Lysergic acid;
(I) Lysergic acid amide;

(J) Methyprylon;
(K) Sulfondiethylmethane;
(L) Sulfonethylmethane;
(M) Sulfonmethane; and
(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrhydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-01-02, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:
(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;
(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;
(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and
(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(v) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:
(A) Boldenone;
(B) Chlorotestosterone (4-chlortestosterone);
(C) Clostebol;

(D) Dehydrochlormethyltestosterone;
(E) Dihydrotestosterone (4-dihydrotestosterone);
(F) Drostanolone;
(G) Ethylestrenol;
(H) Fluoxymesterone;
(I) Formebulone (formebolone);
(J) Mesterolone;
(K) Methandienone;
(L) Methandranone;
(M) Methandriol;
(N) Methandrostenolone;
(O) Methenolone;
(P) Methyltestosterone;
(Q) Mibolerone;
(R) Nandrolone;
(S) Norethandrolone;
(T) Oxandrolone;
(U) Oxymesterone;
(V) Oxymetholone;
(W) Stanolone;
(X) Stanozolol;
(Y) Testolactone;
(Z) Testosterone; and
(AA) Trenbolone.

Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them;

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Alprazolam;
(B) Barbital;
(C) Bromazepam;
(D) Butorphanol;
(E) Camazepam;
(F) Chloral betaine;
(G) Chloral hydrate;
(H) Chlordiazepoxide;
(I) Clobazam;
(J) Clonazepam;
(K) Clorazepate;
(L) Clotiazepam;
(M) Cloxazolam;
(N) Delorazepam;
(O) Diazepam;
(P) Dichloralphenazone;
(Q) Estazolam;
(R) Ethchlorvynol;
(S) Ethinamate;

(T) Ethyl loflazepate;
(U) Fludiazepam;
(V) Flunitrazepam;
(W) Flurazepam;
(X) Halazepam;
(Y) Haloxazolam;
(Z) Ketazolam;
(AA) Loprazolam;
(BB) Lorazepam;
(CC) Lormetazepam;
(DD) Mebutamate;
(EE) Medazepam;
(FF) Meprobamate;
(GG) Methohexital;
(HH) Methylphenobarbital (mephobarbital);
(II) Midazolam;
(JJ) Nimetazepam;
(KK) Nitrazepam;
(LL) Nordiazepam;
(MM) Oxazepam;
(NN) Oxazolam;
(OO) Paraldehyde;
(PP) Pentazocine;
(QQ) Petrichloral;
(RR) Phenobarbital;
(SS) Pinazepam;
(TT) Prazepam;
(UU) Quazepam;
(VV) Temazepam;
(WW) Tetrazepam;
(XX) Triazolam;
(YY) Zaleplon; and
(ZZ) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
(A) Cathine ((+)-norpseudoephedrine);
(B) Diethylpropion;
(C) Fencamfamine;
(D) Fenproprex;
(E) Mazindol;
(F) Mefenorex;
(G) Modafinil;
(H) Pemoline, including organometallic complexes and chelates thereof;
(I) Phentermine;
(J) Pipradrol;
(K) Sibutramine; and
(L) SPA((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(e) Schedule V: Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(vii) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

58-37-5. Repealed.

58-37-5.5. Recognized controlled substance analogs.

(1) A substance listed under Subsection (2) is an analog, as defined in Subsection 58-37-2(1)(g), if the substance, in any quantity, and in any material, compound, mixture, or preparation, is present in:

(a) any product manufactured, distributed, or possessed for the purpose of human consumption; or

(b) any product, the use or administration of which results in human consumption.

(2) Substances referred to in Subsection (1) including, but are not limited to:

(a) gamma butyrolactone (GBL);

(b) butyrolactone;

(c) 1,2 butanolide;

(d) 2-oxanolone;

(e) tetrahydro-2-furanone;

(f) dihydro-2 (3H)-furanone;

(g) tetramethylene glycol;

(h) 1,4 butanediol; and

(i) gamma valerolactone.

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research - Issuance by department - Denial, suspension, or revocation - Records required - Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription,

administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-303.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules II through V within this state or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules II through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may be rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules II through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of the person's business or employment; however, nothing in this Subsection (2) shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed placed of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses any controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or any person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for licensing of certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if consistent with the public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules proving for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) Upon proper application, the division shall license a qualified applicant to manufacture produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest. The division shall not issue a license to any person to prescribe, dispense, or administer a

Schedule I controlled substance. In determining public interest, the division shall consider whether or not the applicant has:

(i) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into other than legitimate medical, scientific, or industrial channels;

(ii) complied with applicable state and local law;

(iii) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(iv) past experience in the manufacture of controlled dangerous substances;

(v) established effective controls against diversion; and

(vi) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this act in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of non-narcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4) or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980 and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal license denied, suspended, or revoked by competent federal authority and is no longer authorized to engage in the manufacturing, distribution, or dispensing of controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed or until all appeals have been concluded unless a court upon application orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record-keeping and inventory

requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the person keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless the person is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304 may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, a person may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the following restrictions:

(i) (A) A prescription for a Schedule II substance may not be refilled.

(B) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(ii) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(iii) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(iv) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(v) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply;

(C) a second or third prescription shall include the date of issuance and the date for dispensing; and

(D) unless the practitioner determines there is a valid medical reason to the contrary, the date for dispensing a second or third prescription may not be fewer than 30 days from the dispensing date of the previous prescription.

(vi) Each prescription for a controlled substance may contain only one controlled substance per prescription form and may not contain any other legend drug or prescription item.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a minor, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the minor except in cases of an emergency. For purposes of this Subsection (7)(h), "minor" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain of suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Section 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsections (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (7)(j) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (7)(o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered deemed to be a privileged communication.

58-37-7. Labeling and packaging controlled substance.

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a pharmacist sells or dispenses any controlled substance on a prescription issued by a practitioner, he shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:
(i) pharmacy name and address;
(ii) serial number; and
(iii) date of initial filling;
(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;
(c) the name of the practitioner by whom the prescription was written;
(d) any directions stated on the prescription and any directions required by rules and regulations promulgated by the department.

(4) A person may not alter the face or remove any label so long as any of the original contents remain.

(5) (a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing it.
(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

58-37-7.5. Controlled Substance Database - Pharmacy reporting requirements - Access - Penalties.

(1) As used in this section:
(a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.
(b) "Database" means the controlled substance database created in this section.
(c) "Database manager" means the person responsible for operating the database, or the person's designee.
(d) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.
(e) "Health care facility" is as defined in Section 26-21-2.
(f) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.

(2) (a) There is created within the division a controlled substance database.
(b) The division shall administer and direct the functioning of the database in accordance with this section. The division may under state procurement laws contract with another state agency or private entity to establish, operate, or maintain the database. The division in collaboration with the board shall determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.
(c) The purpose of the database is to contain data as described in this section regarding every prescription for a controlled substance dispensed in the state to any person other than an inpatient in a licensed health care facility.
(d) Data required by this section shall be submitted in compliance with this section to the manager of the database by the pharmacist in charge of the drug outlet where the controlled substance is dispensed.

(3) The board shall advise the division regarding:
(a) establishing, maintaining, and operating the database;
(b) access to the database and how access is obtained; and
(c) control of information contained in the database.

(4) The pharmacist in charge shall, regarding each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the manager of the

database the following information, by a procedure and in a format established by the division:

(a) name of the prescribing practitioner;

(b) date of the prescription;

(c) date the prescription was filled;

(d) name of the person for whom the prescription was written;

(e) positive identification of the person receiving the prescription, including the type of identification and any identifying numbers on the identification;

(f) name of the controlled substance;

(g) quantity of controlled substance prescribed;

(h) strength of controlled substance;

(i) quantity of controlled substance dispensed;

(j) dosage quantity and frequency as prescribed;

(k) name of drug outlet dispensing the controlled substance;

(l) name of pharmacist dispensing the controlled substance; and

(m) other relevant information as required by division rule.

(5) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

(6) (a) The division shall by rule establish the electronic format in which the information required under this section shall be submitted to the administrator of the database.

(b) The division shall ensure the database system records and maintains for reference:

(i) identification of each person who requests or receives information from the database;

(ii) the information provided to each person; and

(iii) the date and time the information is requested or provided.

(7) The division shall make rules to:

(a) effectively enforce the limitations on access to the database as described in Subsection (8); and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(8) The manager of the database shall make information in the database available only to the following persons, and in accordance with the limitations stated and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substances laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) employees of the Department of Health whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, provided that the identity of the individuals and pharmacies in the database are confidential and

are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(d) a licensed practitioner having authority to prescribe controlled substances, to the extent:

(i) the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;

(ii) the information relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe controlled substances; or

(iii) the information relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(e) a licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance;

(f) federal, state, and local law enforcement authorities engaged as a specified duty of their employment in enforcing laws:

(i) regulating controlled substances; or

(ii) investigating insurance fraud, Medicaid fraud, or Medicare fruad; and

(g) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the database manager that the individual requesting the information is in fact the person about whom the data entry was made.

(9) Any person who knowingly and intentionally releases any information in the database in violation of the limitations under Subsection (8) is guilty of a third degree felony.

(10) (a) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this section or by rule is guilty of a third degree felony.

(11) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified in Subsection (8). Each separate violation of this Subsection (11) is a third degree felony and is also subject to a civil penalty not to exceed $5,000.

(b) The procedure for determining a civil violation of this Subsection (11) shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(c) Civil penalties assessed under this Subsection (11) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(12) (a) The failure of a pharmacist in charge to submit information to the database on required under this section after the division has submitted a specific written request for the information or when the division determines the individual has a demonstrable pattern of failing to submit the information as required is grounds for the division to take the following actions in accordance with Section 58-1-401:

(i) refuse to issue a license to the individual;

(ii) refuse to renew the individual's license;

(iii) revoke, suspend, restrict, or place on probation the license;
(iv) issue a public or private reprimand to the individual;
(v) issue a cease and desist order; and
(vi) impose a civil penalty of not more than $1,000 for each dispensed prescription regarding which the required information is not submitted.

(b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(c) The procedure for determining a civil violation of this Subsection (12) shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(13) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information.

(14) All department and the division costs necessary to establish and operate the database shall be funded by appropriations from:
(a) the Commerce Service Fund; and
(b) the General Fund.

(15) All costs associated with recording and submitting data as required in this section shall be assumed by the submitting pharmacy.

(16) (a) Except as provided in Subsection (16)(b), data provided to, maintained in, or accessed from the database that may be identified to, or with, a particular person is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to the data.

(b) The restrictions in Subsection (16)(a) do not apply to:
(i) a criminal proceeding; or
(ii) a civil, judicial, or administrative action brought to enforce the provisions of this section, Section 58-37-7.7, or Section 58-37-7.8.

58-37-7.7. Use of dedicated credits - Controlled Substance Database - Collection of penalties.

(1) The director may use the monies deposited in the General Fund as a dedicated credit under Subsections 58-37-6(8)(a), 58-37-7.5(11)(c) and 58-37-7.5(12)(b) for the following purposes:
(a) maintenance and replacement of the database equipment, including hardware and software;
(b) training of staff; and
(c) pursuit of external grants and matching funds.

(2) The director of the division may collect any penalty imposed under Subsections 58-37-6(8)(a), 58-37-7.5(11)(c) and 58-37-7.5(12)(b) and which is not paid by:
(a) referring the matter to the Office of State Debt Collection or a collection agency; or
(b) brining an action in the district court of the county in which the person owing the debt resides or in the county where the office of the director is located.

(3) The director may seek legal assistance from the attorney general to the county or district attorney of the district in which the action is brought to collect the fine.

(4) The court shall award reasonable attorney's fees and costs to the division for successful collection actions under Subsection (2)(b).

(5) All funding of the controlled substance database as defined under Section 58-37-7.5 is nonlapsing.

58-37.7.8. Pilot program for real-time reporting for controlled substance database - Statewide implementation.

(1) (a) As used in this section:
(i) "Pilot area" means the areas of the state that the division determines to operate the pilot program in, under Subsection (3), which may include:
(A) the entire state; or
(B) geographical areas within the state.
(ii) "Pilot program" means the pilot program described in this section.
(b) The definitions in Subsection 58-37-7.5(1) apply to this section.

(2) There is established a pilot program for real-time reporting of data to, and access to data from, the database by a pharmacy, a pharmaceutical facility, or a prescribing practitioner beginning on July 1, 2008 and ending on July 1, 2010.

(3) In addition to fulfilling the requirements of Sections 58-37-7.5 and 58-37-7.7 on a statewide basis, the division shall, in accordance with Subsection (4), upgrade, administer, and direct the functioning of the database in geographical areas specified by the division, or on a statewide basis, in a manner that provides for real-time reporting of information entered into, and accessed from, the database by a pharmacy or pharmaceutical facility.

(4) The division shall, under state procurement laws, and with the technical assistance of the Department of Technology Services, contract with a private entity to upgrade, operate, and maintain the database in the pilot area.

(5) (a) All provisions and requirements of the statewide database, described in Sections 58-37-7.5 and 58-37-7.7, are applicable to the database in the pilot area, to the extent that they do not conflict with the requirements of this section.
(b) For purposes of Section 58-37-7.5, Section 58-37-7.7, and this section, the database in the pilot area is considered part of the statewide database.

(6) A pharmacy or pharmaceutical facility shall cooperate with the division, or the division's designee, to provide real-time submission of, and access to, information for the database:
(a) in the pilot area; and
(b) when the division implements the pilot program as a permanent program under Subsection (10), on a statewide basis.

(7) The penalties and enforcement provisions described in Sections 58-37-7.5 and 58-37-7.7 apply to enforce the provisions of this section in relation to a pharmacy or pharmaceutical facility that is located in, or operates in, the pilot area.

(8) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the real-time reporting of, and access to, information in accordance with the requirements of this section.

(9) During the Legislature's 2009 interim, the division shall report to the Health and Human Services Interim Committee regarding:
(a) the implementation, operation, and impact of the pilot program established in this section;
(b) the progress made by the division in implementing the pilot program on a statewide basis;
(c) the advisability of, and projected costs of, implementing the pilot program on a statewide basis; and
(d) the use of the database by prescribing practitioners.

(10) The division shall, on or before July 1, 2010, implement the pilot program as a permanent program on a statewide basis.

(11) (a) The division shall, through the private entity contracted with under Subsection (4), provide, free of charge, to a pharmacy or

pharmaceutical facility that is required to comply with Subsection (6), software, software installation assistance, and training, that will enable the pharmacy or pharmaceutical facility to comply with Subsection (6).

(b) Notwithstanding Subsection (11)(a), a pharmacy or pharmaceutical facility required to comply with Subsection (6) may, instead of accepting installation of the software provided bv the division under Subsection (11)(a), modify its own software in order to comply with the requirements of Subsection (6), if the modification is made:
  (i) except as provided in Subsection (11)(d), at the expense of the pharmacy or pharmaceutical facility;
  (ii) in consultation with the division; and
  (iii) within six months after the division notifies the pharmacy or pharmaceutical facility, in writing, of the division's intention to install the software described in Subsection (11)(a).

(c) The division shall, through the private entity contracted with under Subsection (4), cooperate with a pharmacy or pharmaceutical facility that is required to comply with Subsection (6), to ensure that the installation and operation of the software described in Subsection (11)(a), or the provision of information from the pharmacy or pharmaceutical facility to the database:
  (i) complies with the security standards described in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards;
  (ii) does not interfere with the proper functioning of the pharmacy's or pharmaceutical facility's software or computer system; and
  (iii) in order to minimize changes in existing protocols, provides, to the extent practicable, for the transmission of data in the same manner that pharmacies currently transmit information to insurance companies.

(d) The division may, within funds appropriated by the Legislature for this purpose, reimburse a pharmacy for all or part of the costs of the in-house programming described in Subsection (11)(b), if:
  (i) the pharmacy requests the reimbursement, in writing;
  (ii) the pharmacy provides proof of the costs for the in-house programming to the division;
  (iii) the pharmacy requests the reimbursement prior to a deadline established by the division; and
  (iv) except as provided in Subsection (11)(e), the division pays an equal reimbursement amount to each pharmacy that complies with Subsections (11)(d)(i) through (iii).

(e) The division may reimburse a pharmacy described in Subsection (11)(d)(iv) for an amount that is less than the reimbursement paid to other pharmacies described in Subsection (11)(d)(iv), if:
  (i) the proof of costs for in-house programming provided by the pharmacy establishes a cost less than the amount reimbursed to other pharmacies; and
  (ii) the amount reimbursed to the pharmacy is equal to the amount established by the proof of costs for in-house programming submitted by the pharmacy.

(f) Notwithstanding any other provision of this section, the division may, by rule, allow up to 24 hours for the reporting of data to the database by a non-resident pharmacy, as defined in Sectoin 58-17b-102.

58-37-8. Prohibited acts - Penalties.

(1) Prohibited acts A - Penalties:
  (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
(iii) possess a controlled or counterfeit substance with intent to distribute, or
(iv) engage in a continuing criminal enterprise where:
(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and
(B) the violation is a party of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concern with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:
(i) a substance classified in Schedule I or II, a controlled substance analog, or gamma hydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;
(ii) a substance classified in Schedule III or IV, or marijuana, is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or
(iii) a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one-year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B - Penalties:

(a) It is unlawful:
(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of his professional practice, or as otherwise authorized by this Subsection (2);
(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations;

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:
(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
(ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or
(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction, the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:
(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law; and
(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and
(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and
(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (2)(a)(iii) is:
(i) on a first conviction, guilty of a class B misdemeanor;
(ii) on a second conviction, guilty of a class A misdemeanor; and
(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207;
(i) violates Subsections (2)(a)(i) by knowingly and intentionally having in his body any measurable amount of a controlled substance; and
(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in his body:
(i) a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA) is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(3) Prohibited acts C - Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose his receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D - Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or post-secondary institution or on the grounds of any of those schools or institutions.

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school under Subsection (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsection (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a pleay of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of his professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under his direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of his employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possess, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 57-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than ten days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

58-37-8.5. Applicability of Title 76 prosecutions under this chapter.

Unless specifically excluded in or inconsistent with the provisions of this chapter, the provisions of Title 76, Chapters 1, 2, 3 and 4, are fully applicable to prosecutions under this chapter.

58-37-9. Investigators - Status of peace officers.

Investigators for the Department of Commerce shall, for the purpose of enforcing the provisions of this chapter, have the status of peace officers.

58-37-10. Search warrants - Administrative inspection warrants - Inspections and seizures of property without warrant.

(1) Search warrants relating to offenses involving controlled substances may be authorized pursuant to the Utah Rules of Criminal Procedure.

(2) Issuance and execution of administrative inspection warrants shall be as follows:

(a) Any judge or magistrate of this state within his jurisdiction upon proper oath or affirmation showing probate cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. Probable cause for purposes of this act exists upon showing a valid public interest in the effective enforcement of the act or rules promulgated thereunder sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(b) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged sworn to before a judge or magistrate which establish the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any. The warrant shall:

(i) state the grounds for its issuance and the name of each person whose affidavit has been taken to support it;

(ii) be directed to a person authorized by Section 58-37-9 of this act to execute it;

(iii) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and if appropriate, direct the seizure of the property specified;

(iv) identify the item or types of property to be seized, if any; and

(v) direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.

(c) A warrant issued pursuant to this section must be executed and returned within ten days after its date unless, upon a showing of a need for additional time, the court instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or leave the copy and receipt at the place where the property was taken. Return of the warrant shall be made promptly and be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(d) The judge or magistrate who issued the warrant under this section shall attach a copy of the return and all other papers to the warrant and file them with the court.

(3) The department is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(a) For purposes of this section only, "controlled premises" means:

(i) Places where persons licensed or exempted from licensing requirements under this act are required to keep records.

(ii) Places including factories, warehouses establishments, and conveyances where persons licensed or exempted from licensing requirements are permitted to possess, manufacture, compound,

process, sell, deliver, or otherwise dispose of any controlled substance.

(b) When authorized by an administrative inspection warrant a law enforcement officer or employee designated in Section 58-37-9, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

(c) When authorized by an administrative inspection warrant, a law enforcement officer or employee designated in Section 58-37-9 has the right:

(i) To inspect and copy records required by this chapter.

(ii) To inspect within reasonable limits and a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found, and except as provided in Subsection (3)(e), all other things including records, files, papers, processes, controls, and facilities subject to regulation and control by this chapter or by rules promulgated by the department.

(iii) To inventory and stock of any controlled substance and obtain samples of any substance.

(d) This section shall not be construed to prevent the inspection of books and records without a warrant pursuant to an administrative subpoena issued by a court or the department nor shall it be construed to prevent entries and administrative inspections including seizures of property without a warrant:

(i) With the consent of the owner, operator, or agent in charge of the controlled premises;

(ii) In situations presenting imminent danger to health or safety;

(iii) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(iv) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(v) In all other situations where a warrant is not constitutionally required.

(e) No inspection authorized by this section shall extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

58-37-11. District court jurisdiction to enjoin violations - Jury trial.

(1) The district courts of this state shall have jurisdiction in proceedings in accordance with the rules of those courts to enjoin violations of this act.

(2) If an alleged violation of an injunction or restraining order issued under this section occurs, the accused may demand a jury trial in accordance with the rules of the district courts.

58-37-12. Enforcement - Coordination and cooperation of federal and state agencies - Powers.

The department and all law enforcement agencies charged with enforcing this act shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they are authorized to:

(1) Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances.

(2) Coordinate and cooperate in training programs in controlled substance law enforcement at the local and state levels.

(3) Cooperate with the United States Department of Justice and the Utah Department of Public Safety by establishing a centralized unit which will receive, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes.

(4) Conduct programs of eradication aimed at destroying the wild or illicit growth of plant species from which controlled substances may be extracted.

58-37-13. Property subject to forfeiture - Seizure - Procedure.

(1) As used in this section:

(a) "Claimant" means:

(i) any owner as defined in this section; or

(ii) any interest holder as defined in this section and any other person or entity who asserts a claim to any property seized for forfeiture under this section.

(b) "Drug distributing paraphernalia" means any property used or designed to be used in the illegal transportation, storage, shipping, or circulation of a controlled substance. Property is considered "designed to be used" for one or more of the above-listed purposes if the property has been altered or modified to include a feature or device which would actually promote or conceal a violation of this chapter.

(c) "Drug manufacturing equipment or supplies" includes any illegally possessed controlled substance precursor, or any chemical, laboratory equipment, or laboratory supplies possessed with intent to engage in clandestine laboratory operation as defined in Section 58-37d-3.

(d) "Interest holder" means a secured party as defined in Section 70A-9-105(1)(m), a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value. A person who holds property for the benefit of or as an agent or nominee for another, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an interest holder.

(e) "Owner" means an individual or entity who possesses a legal or equitable ownership in real or personal property.

(f) "Proceeds" means property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose.

(g) "Real Property" means:

(i) land; and

(ii) any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

(h) "Resolution of criminal charges" occurs at the time a claimant who is also charged with violations under Chapter 37, 37a, 37b, 37c, or 37d enters a plea, upon return of a jury verdict or court ruling in a criminal trial, or upon dismissal of the criminal charge.

(i) "Violation of this chapter" means any conduct prohibited by Chapter 37, 37a, 37b, 37c, or 37d or any conduct occurring outside the state which would be a violation of the laws of the place where the conduct occurred and which would be a violation of Chapter 37, 37a, 37b, 37c, or 37d if the conduct had occurred in this state.

(2) The following are subject to criminal or civil forfeiture pursuant to Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act:

(a) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;
(b) all raw materials, products, and equipment of any kind used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
(c) all property used or intended for use as a container for property described in Subsections (2)(a) and (2)(b);
(d) all hypodermic needles, syringes, and other paraphernalia, not including capsules used with health food supplements and herbs, used or intended for use to administer controlled substances in violation of this chapter;
(e) all conveyances including aircraft, vehicles or vessels used or intended for use, to transport, or in any manner facilitate the transportation, sale, receipt, simple possession, or concealment of property described in Subsections (2)(a) and (2)(b);
(f) all books, records, and research, including formulas, microfilm, tapes, and data used or intended for use in violation of this act;
(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of this chapter, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter. An interest in property may not be civilly forfeited under this Subsection (2) unless it is proven by clear and convincing evidence that the owner or any interest holder of the conduct which made the property subject to forfeiture. The burden of presenting this evidence shall be upon the state;
(h) all imitation controlled substances as defined in Section 58-37b-2, Imitation Controlled Substances Act;
(i) (i) all warehousing, housing and storage facilities, or interest in real property of any kind used, or intended for use, in producing, cultivating, warehousing, storing, protecting, or manufacturing any controlled substances in violation of this chapter but only if:
(A) the cumulative sales of controlled substances on the property within a two-month period total or exceed $1,000; or
(B) the street value of any controlled substances found on the premises at any given time totals or exceeds $1,000, but only after the judge makes a specific finding of proportionality under Section 24-1-14, and subject to the condition that even if proportionality is found, the judge shall have discretion not to forfeit real property which is a primary residence.
(ii) A narcotics officer experienced in controlled substances law enforcement may testify to establish the street value of the controlled substances for purposes of this Subsection (2);
(j) any firearm, weapon, or ammunition carried or used in connection with a violation of this chapter or any firearm, weapon, or ammunition kept or located within the proximity of controlled substances
(k) all proceeds traceable to any violation of this chapter.

(3) Property subject to forfeiture under this chapter may be seized by any peace officer of this state upon process issued by any court having jurisdiction over the property. However, seizure without process may be made when:
(a) the seizure is incident to an arrest or search under a search warrant or an inspection under an administrative inspection warrant;
(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter;

(c) the peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
(d) the peace officer has probable cause to believe that the property has been used or intended to be used in violation of this chapter and has probable cause to believe the property will be damaged, intentionally diminished in value, destroyed, concealed, or removed from the state.

(4) Property taken or detained under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of the court or the official having jurisdiction. When property is seized under this chapter, the appropriate person or agency may:
(a) place the property under seal;
(b) remove the property to a place designated by it or the warrant under which it was seized; or
(c) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(5) All substances listed in Schedule I that are possessed, transferred, distributed, or offered for distribution in violation of this chapter are contraband and no property right shall exist in them. All substances listed in Schedule I which are seized or come into the possession of the state may be retained for any evidentiary or investigative purpose, including sampling or other preservation prior to disposal or destruction by the state.

(6) All marijuana or any species of plants from which controlled substances in Schedules I and II are derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or are wild growths, may be seized and retained for any evidentiary or investigative purpose, including sampling or other preservation prior to disposal or destruction by the state. Failure, upon demand by the department or its authorized agent, of any person in occupancy or in control of land or premises upon which species of plants are growing or being stored, to produce an appropriate license or proof that he is the holder of a license, is authority for the seizure and forfeiture of the plants.

(7) Forfeiture proceedings shall conform with the procedures and substantive protections of Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

58-37-14. Resort for illegal use or possession of controlled substances deemed common nuisance - District court power to suppress and enjoin.

(1) Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or other place to which users or possessors of any controlled substances, listed in Schedules I through V, resort or where use or possession of any substances violates this act, or which is used for illegal keeping, storing, or selling any substances listed as controlled substances in Schedules I through V shall be deemed a common nuisance. No person shall open, keep or maintain any such place.

(2) The district court has the power to make any order necessary or reasonable to suppress any nuisance and to enjoin any person or persons from doing any act calculated to cause, or permit the continuation of a nuisance.

58-37-15. Burden of proof in proceedings on violations - Enforcement officers exempt from liability.

(1) It is not necessary for the state to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or trial, hearing, or other proceeding under this act, and the burden of proof of any exemption or exception is upon the person claiming its benefit.

(2) In absence of proof that a person is the duly authorized holder of an appropriate license, registration, order form, or prescription issued under this act, he shall be presumed not to be the holder of a license,

registration, order form, or prescription, and the burden of proof is upon him to rebut the presumption.

(3) No liability shall be imposed upon any duly authorized state or federal officer engaged in the enforcement of this act who is engaged in the enforcement of any law, municipal ordinance, or regulation relating to controlled substances.

58-37-16. Powers to order testimony of witnesses or production of evidence - Immunity of witness compelled to testify.

If the prosecuting attorney or attorney general of the state of Utah determines that the testimony of any witness or the production of any book, paper, or other evidence by any witness before a grand jury or court of the state of Utah involving any violation of this chapter is necessary, he shall make application to the court that the witness be instructed to testify or produce evidence subject to the provisions of this section and upon order of the court the witness shall not be excused from testifying or producing books, papers, or other evidence on the ground that the testimony or evidence may tend to incriminate him or subject him to forfeiture. No witness shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which he is compelled to testify after having claimed his privilege against self-incrimination or produce evidence nor shall any such evidence be used in any criminal proceeding against him in any court except prosecutions described in this section. No witness is exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion.

58-37-17. Judicial review.

(1) Any person aggrieved by a department's final order may obtain judicial review.

(2) Venue for judicial review of informal adjudicative proceedings is in the district court of Salt Lake County.

58-37-18. Prior prosecutions and proceedings continued - Uniform construction.

(1) (a) Prosecution for violation of any law or offense occurring prior to the effective date of this act shall not be affected by this act; provided, that sentences imposed after the effective date of this act may not exceed the maximum terms specified and the judge has discretion to impose any minimum sentence.

(b) Civil seizures, forfeitures, and injunctive proceedings commenced prior to the effective date of this act shall not be affected by this act.

(c) All administrative proceedings pending before any agency or court on the effective date of this act shall be continued and brought to final determination in accordance with laws and regulations in effect prior to the effective date of this act. Drugs placed under control prior to enactment of this act which are not listed within Schedules I through V shall be automatically controlled and listed in the appropriate schedule without further proceedings.

(2) This act does not affect rights and duties that mature, penalties that are incurred, and proceedings that are begun before its effective date.

(3) This act shall be construed to effectuate its general purpose to make uniform the law of those states which enact it where laws are similar to this act.

58-37-19. Repealed.

58-37-20. Drug Forfeiture Account created - Revenue sources - Use of account designated.

(1) (a) There is created in the General Fund a restricted account called the "Drug Forfeiture Account."
(b) All monies forfeited or seized to the state through the state or federal court process as a result of activity involving a controlled substance violation as prohibited under Title 58, Chapter 37, 37a, 37b, 37c or 37d, or prohibited under federal law, shall be deposited into the Drug Forfeiture Account.
(2) The Department of Public Safety may expend amounts as appropriated by the Legislature from the Drug Forfeiture Account to aid in enforcement efforts to combat drug trafficking.
(3) That portion of funds forfeited or seized that are required to be disbursed to other governmental entities under existing contractual agreements are exempt from this section.
(4) Funds forfeited or seized as a result of the Salt Lake Airport Drug Program, not to exceed the Department of Public Safety's expenditure to that program, are exempt from this section.
(5) The Department of Public Safety as part of the annual budget hearings shall provide the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a complete accounting of expenditures and revenues from the funds under this section.
(6) The Legislature may annually provide, in the Appropriations Act, legislative direction for anticipated expenditures of the monies received under this section.

58-37-21. Admissibility of Utah State Crime Laboratory documents - Drug analysis in criminal pretrial proceedings.

The commissioner of the Department of Public Safety shall establish standards for administration and interpretation of chemical and forensic analysis in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of:
(1) controlled substances as provided in Title 58, Chapter 37;
(2) drug paraphernalia as provided in Title 58, Chapter 37a;
(3) imitation controlled substances as provided in Title 58, Chapter 37b; and
(4) controlled substance precursors as provided in Title 58, Chapter 37d.

UTAH CONTROLLED SUBSTANCES ACT

Title 58, Chapter 37
Utah Code Annotated 1953
As Amended by
Session Laws of Utah 2008
Issued July 1, 2008